

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

GRIFFIN SERVICES, INC.

Employer

and

Case 6-RC-11983

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 95, 95A, 95O, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Gerald McKinney, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.¹

Upon the entire record in this case, the Regional Director finds:²

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by July 26, 2001.

² Both parties filed timely briefs which have been considered by the undersigned. On June 20, 2001, the Employer filed a "supplement" to its Post-Hearing Brief, assertedly containing references to the record of a Board hearing held concerning another Employer facility in which the Petitioner herein participated. Since this information directly relates to a matter already addressed in the instant hearing, and noting that the Petitioner, although served with the supplement, has not opposed consideration of that supplement, I have taken note of the supplement. However, for the reasons set forth herein, nothing contained in that supplement alters my conclusions in this matter.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(l) and Section 2(6) and (7) of the Act.

As amended at the hearing, the Petitioner seeks to represent a unit of all full-time and regular part-time skilled maintenance employees, including electricians, HVAC-R mechanics, carpenters, plumbers, auto mechanics, and boiler tenders employed by the Employer at its Moon Township, Pennsylvania, facility; excluding all office clerical employees, stock clerks, laborers, warehouse specialists, heavy equipment operators, work controllers, material controllers and guards, professional employees and supervisors as defined in the Act, and all other employees.³

The Employer, contrary to the Petitioner, maintains that the petitioned-for unit is inappropriate and that the only appropriate unit would be one consisting of all hourly-paid employees excluding office clerical employees, in effect, a wall-to-wall unit.⁴ The unit sought by the Petitioner consists of eleven employees in the job classifications set forth in the petitioned-for unit description, while the unit proposed by the Employer consists of thirty-seven employees. There is no history of collective bargaining for any of the employees involved herein.

³ At the hearing, the parties stipulated and I find, that the following individuals have authority in the interest of the Employer to hire, fire, discipline or responsibly direct other employees, or to effectively recommend such action and are supervisors within the meaning of Section 2(11) of the Act and thus excluded from the bargaining unit: Edward Matthews, Contract Manager; Phillip Fratangeli, Q/C Safety/Training Manager; Margaret Willis, Logistics Manager; Louis Manning, MVM Manager; David Carter, RPM Manager; Gary Beistel, Traffic Manager; Arnold Hamovitz, Chief Airfield Manager; Paul Goldstrom, Fuel Supervisor; and Raymond Pfeffer, M & R Supervisor. The parties also stipulated that Roxanne Pozza, Administrative Assistant, is an agent of the Employer with administrative and financial duties and should be excluded from any bargaining unit, and I so find.

⁴ The Employer does not dispute that the employees in the petitioned-for unit perform skilled maintenance duties, but rather bases its contention on other community of interest grounds.

The Employer, a Georgia corporation with an office and place of business located in Moon Township, Pennsylvania, is engaged in the business of providing facilities and operation maintenance services and base operations support services both to commercial customers and at U.S. Air Force and other U.S. Reserve military bases, under contract with those entities. Solely involved in the instant proceeding are the Employer's operations at a U.S. Air Force Reserve Base facility in Moon Township, Pennsylvania.

The Employer's operation is divided into five functional areas. The first is real property management (RPM) overseen by David Carter, which deals with maintaining the buildings and grounds of the Moon Township Air Force Base. Included in this area is the maintenance and repair (M & R) department supervised by Raymond Pfeffer, which includes the M & R section in which eight of the eleven employees included in the petitioned-for unit are employed: one boiler tender, two carpenters, two maintenance electricians, two HVAC-R mechanics and one plumber. Additionally, Pfeffer also supervises four employees in the Roads and Grounds (R&G) section, including three laborers and one driver.

The next area of operation is Motor Vehicle Operation, supervised by Louis Manning, which includes the Vehicle Maintenance unit consisting of the other three petitioned-for employees: two motor vehicle mechanics and one lead motor vehicle mechanic, as well as a production control clerk. This area is responsible for maintaining all of the motor vehicles on the base ranging from regular sedans to tractor-trailers, dump trucks, pick-up trucks, vans, a large rollover snow plow, and several pieces of heavy construction equipment. These employees work in a separate building from the M & R employees.

The third area of operation is Traffic Management Development, supervised by Gary Biestel, which is responsible for freight handling functions.

The fourth area of operation is Airfield Management, under the supervision of Arnold Hamovitz. This department is responsible for maintaining the airfield property. Finally, the Logistics Management operation, supervised by Margaret Willis, handles supply functions including receiving and managing all goods and supplies shipped into the facility for use in the

operation of the facility, including aircraft parts, vehicle parts, clothing and a variety of other supplies needed to support the operation of the facility and those military personnel stationed at the base. Also under Logistics Management is the fuels area, supervised by Paul Goldstrom, which includes the management, delivery and storage of aircraft fuel supplies needed for the operation of the base.

The Employer, which provides similar services at approximately twenty government and private facilities in the U.S., has only been operating at the Moon Township location since February 1, 2001. Previously, the operations which it now performs were performed by federal government employees. It appears that all of the Employer's employees working at the facility were newly hired by the Employer when it began operations.

The facility consists of 101 acres containing 43 buildings as well as other related equipment and structures. The eight petitioned-for employees in the M & R section are primarily engaged in the maintenance and repair of the buildings and equipment. The boiler tender employee, John Skozik, inspects the various boilers and related equipment located in the buildings at the facility on a daily basis and responds to all service calls. He does maintenance checks on all of this equipment to make sure the equipment is functioning properly, that heating is properly distributed in the buildings and that all safety provisions are in effect. He is certified to perform these duties. The two carpenter employees, Thomas Strella and David Wuenstel, are engaged primarily, day-to-day, in maintenance and repair projects which require carpentry skills. In addition, Strella functions as a locksmith for the facility and he responds to service calls. Similarly, Eric Manning and William McClintock, electricians, primarily are engaged in performing interior and exterior electrical maintenance repairs. The bulk of their duties involve responding to service calls from anywhere on the base where there is an electrical problem. In addition, they perform what is called recurring maintenance which involves inspection of such things as emergency generators, circuit breakers, and other equipment located on the base. Both electricians also have the appropriate licenses and certifications.

Also employed in the M & R section are two certified HVAC-R mechanics, Curtis Newcomer and Douglas Suthard. These employees have responsibility for the upkeep of the air quality and heating/air-conditioning and ventilation systems throughout the base and its various buildings. Kenneth Keets, a plumber, is also employed in the M & R operations. He is responsible for maintaining and repairing all of the plumbing at the base. Keets is also certified in this trade. These employees also routinely respond to any service calls involving their areas of responsibility. As noted, the Petitioner seeks to include all of the above classifications of employees in the unit.

The remaining three positions which the Petitioner seeks to include in the unit are held by Henry Holland, vehicle mechanic lead person, and Robert Haines and David Podraski, motor vehicle mechanics, all of whom work in Vehicle Maintenance under the MVM Manager, Louis Manning. The primary duties of these three employees pertain to maintenance of all of the various motor vehicles used in the operations of the base. In addition to repairs, they also perform safety inspections, other regularly scheduled inspections, and preventive maintenance, as well as road service and breakdown service, when necessary, anywhere on the base. There is a fourth employees in the Vehicle Maintenance Area, Patrick Boyer, a production control clerk. His responsibility is to assemble all of the data received on all work orders pertaining to vehicle maintenance, and input it into the Employer's computer system in order to generate accurate reports showing the effectiveness of the vehicle maintenance operation. Boyer does no mechanical work on his own and his position is not included in the petitioned-for unit..

All of the employees in the petitioned-for unit interact primarily on a day-to-day basis with fellow employees in their specific departments. In addition, they may interact with various other employees in connection with their primary duties. Thus, on a service call involving a particular piece of equipment, these employees will interact with whichever employees are engaged in the use of that equipment in order to determine the nature of the problem and what is required to fix it. Further, if they need parts or equipment which are not presently available, they will have contact with employees in the logistics area in order to obtain those items. Similarly, when

performing inspections or preventive maintenance, they may have interaction with employees who work with the equipment they are inspecting in order to determine whether it is functioning satisfactorily. The record does not indicate whether the eight petitioned-for employees in the M & R section have any additional level of interaction with the three other petitioned-for employees who work as vehicle mechanics.

All hourly employees of the Employer receive the same employee benefits consisting of health insurance, life insurance, access to a 401(k) plan, dental coverage, and supplemental life insurance. The pay of the hourly employees ranges from \$11.63 per hour for laborers to \$18.28 per hour for electricians. The petitioned-for employees are among the most highly paid employees at the facility, ranging from \$16.22 per hour, paid to the plumber and carpenter, to \$17.56 and \$17.06 per hour paid to the vehicle mechanics, to the top rate paid to the electricians. The only other employees within this pay range who were not petitioned for were the heavy equipment operator at \$16.80 per hour and the chief of base operations who earns \$17.00 per hour. All hourly employees also receive the same 10 paid holidays annually and are on the same vacation plan. All employees also work essentially the same daytime schedule, although this may vary by 1 or 2 hours for some employees, for operational reasons.

All of the employees in the petitioned-for unit were hired directly into their current jobs. There has been no transfer of other employees into these positions. The record indicates that there are four employees who, it is asserted by the Employer, sometimes perform work also done by those in the petitioned-for unit. These include: (1) Robert Bogovich, classified as a supply technician, who also happens to be a certified boiler tender and HVAC mechanic but who performs that work only in the event of an emergency or "surge" in activity which occurs only very rarely. On a day-to-day basis Bogovich works virtually exclusively in the warehouse performing his supply technician duties. (2) George Kelly, classified as a medium truck driver, who also has experience as a vehicle mechanic and may be assigned those duties in an emergency or "surge" situation where the regular mechanics are overloaded. These situations are rare and on a day-to-day basis Kelly performs little mechanic work.

(3) Randall Melencheck, classified as fuel distribution operator, who is specially trained by the U.S. Navy in handling the fueling system for aircraft at the base, which activities the Employer likens to the skills of a plumber since both involve piping valves and transmission of fluids. However, Melencheck's duties involve specialized functions involving volatile aircraft fuels which are completely unrelated to the work performed by any of the petitioned-for employees. He is in a separate department with separate supervision and works in a different building. He has little or no contact with any of the petitioned-for employees. (4) Michael Martin, heavy equipment operator, who also has experience as a vehicle mechanic and who is estimated to spend as much as 30 percent of his time performing vehicle maintenance functions relating to heavy equipment on the base. This percentage was achieved during the winter months when much of Martin's activities involved both the operation and maintenance of snow plows and other snow removal equipment, It is estimated that the percentage of time Martin will spend on vehicle mechanic activities during the remainder of the year will be lower but since the Employer only began operation at the base in February 2001, there is as yet no history in this regard.

With respect to all of the eleven petitioned-for employees, as well as these aforementioned employees, the Employer provides no training in the specific skill areas in which these employees work. Rather, the certifications and licenses which the employees possess were obtained because of prior training and experience as well as jobs elsewhere.

In addition to its other responsibilities for the operation of the Air Force Base facility, the Employer, under its contract with the government, also has responsibilities in connection with deployment (also known as mobility exercises) to ensure that the base is in the proper state of readiness to dispatch all or any portion of its contingent of personnel or equipment as the Air Force may require. As a part of the Employer's preparation for these exercises, various employees are assigned to additional duties in connection with the deployments and are "cross-trained" for these purposes. In particular, the Employer emphasizes that the two petitioned-for vehicle mechanics are also assigned the additional responsibility of driving large passenger buses used for transporting both civilian and military personnel as needed in connection with the

mobility exercises. These mobilizations occur on an almost monthly basis at the facility and may require the services of mechanics as bus drivers for several hours over the 3-day period that the exercises normally last. During these exercises, they may have contact with other employees of the Employer who are also assigned various duties in connection with these exercises.

As noted previously, employees in the petitioned-for unit also have contact with various other employees during the course of their ordinary duties. However, for the most part, these contacts are of a sporadic and limited nature, involving interactions by petitioned-for unit employees with various supply employees in connection with ordering and obtaining needed spare parts or other equipment used in the performance of their maintenance duties. The vehicle mechanic employees also interact with employees in other departments which make use of vehicles, in connection with necessary repair or maintenance of those vehicles. Thus, if an employee in another department has a problem with a vehicle they are operating, they may contact the vehicle mechanics to inform them of the problem and to request servicing of the vehicle. Similarly, when making "service calls" to deal with equipment for which they are responsible, other employees in the petitioned-for unit may have contact with employees where the equipment is located who will report on the condition and on any problems with that equipment. Also, various recordkeeping employees, including the production clerk in vehicle maintenance have, as previously discussed, reporting and recordkeeping responsibilities which include record keeping in connection with the activities of the petitioned-for unit employees. Thus, employees in the petitioned-for unit must turn in certain work orders and other documents to those record keepers. Finally, some employees, usually those designated as laborers, are assigned on an as-needed basis to assist employees in the petitioned-for unit in their repair and maintenance duties, by providing an extra pair of hands. This assistance does not involve the exercise of any substantial skills with the tools of the trade.

The Employer has also presented evidence that, while there is no bargaining history in connection with the employees at the facility at issue herein, the Employer has similar

operations at a number of locations throughout the United States and that, at six of those locations, its employees are represented for collective bargaining purposes. According to testimony at the hearing, at all of those locations the bargaining units are of the wall-to-wall variety which the Employer contends is the only appropriate unit herein. At two of those locations, the labor organization representing the employees is the International Union of Operating Engineers, the parent organization of the Petitioner. However, in neither of those cases is the local union involved the Petitioner in the present case.⁵

It is well established policy that separate maintenance department units are appropriate for the purpose of collective bargaining where the record establishes that the maintenance employees are a separately identifiable group whose similarity of functions and skills create a community of interest such as would warrant separate representation. American Cyanamid Company, 131 NLRB 909, 910 (1961). In determining whether a sufficient community of interest exists, the Board examines such factors as mutuality of interests in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. Ore-Ida Foods, Inc., 313 NLRB 1016, 1019 (1994), citing Franklin Mint Corporation, 254 NLRB 714, 716 (1981).

In examining these factors, I find, contrary to the contention of the Employer, that the Employer's operations described herein are not so highly integrated as to compel the conclusion that the skilled maintenance employees sought herein do not constitute a separate appropriate unit.⁶

⁵ As noted in footnote 2, supra, the Petitioner is currently involved in another Board representation proceeding involving employees of this Employer.

⁶ The Employer also contends that because employees at a number of its other locations are represented in wall-to-wall units, this bargaining history militates against a finding of a separate appropriate skilled maintenance unit herein. However, the Employer cites no authority in support of this position and, in fact, the Board has specifically rejected such a contention. Big Y Foods, Inc., 238 NLRB 855, 857 (1978) ("Contrary to the Employer, the concept of 'bargaining history,' when discussed in the context of determining the appropriateness of a bargaining unit, refers to the past bargaining relationship between the employer and the employees described in the immediate petition.") See also Overnite Transportation Company, 322 NLRB 723, 724 (1996) ("The Board does not require a union to seek the same unit at

In this regard, I first note that the eight M & R employees work in a separate department with their own supervision. Although it appears that other supervisors may have directed them from time to time in connection with their maintenance or repair work being done in that supervisor's area, this does not indicate common supervision but merely the identification by other personnel of what repairs are needed to be done by the maintenance employees. There is no evidence that other supervisors have ever disciplined or otherwise exercised control over these employees or that they have the authority to do so.

The record also supports the finding that these M & R employees are highly skilled. They are employed in traditional craft occupations and all of them are certified or licensed as journeymen in their craft or have such substantial levels of skill and experience as to be the functional equivalent of such certification. Further, it appears that these employees perform virtually all of the repair and maintenance work required at the facility in regard to both equipment and infrastructure. The higher skill level of these employees is also reflected in the fact that their wages are clustered at the highest wage rates paid by the Employer. In Phillips Products Co., 234 NLRB 323 (1978), for example, the Board found a maintenance unit to be appropriate because, inter alia, the maintenance positions commanded the highest wages among the employer's employees.

While the M & R employees certainly have contact with employees in other departments in the course of their duties, the fact remains that the other employees do not perform skilled maintenance work and the maintenance employees, for the most part, do not engage in any other less skilled duties. The assistance rendered to maintenance employees by other employees, particularly the laborers, has long been held to be the kind of "lending a hand" activity which is peripheral to the actual repair work being done, which does not significantly impact on the separateness of the maintenance employee group. Further, while maintenance repair employees also have incidental interactions with other employees while performing their

different locations of the same employer, even where there is a collective-bargaining history in a broader unit at the other locations.")

own duties in inspecting equipment for which they are responsible, such interaction does not compel a conclusion that a petitioned-for maintenance unit is inappropriate. See Verona Dyestuff Division, Mobay Chemical Corporation, 225 NLRB 1159, 1161 (1976).

The difference in skill level between the maintenance employees and other employees is reflected in the virtual non-existence of any significant interchange between maintenance employees and other employees. The only real exception to this lack of interchange, as noted, is the occasional assignment of employees Bobovich, Kelly, or Martin to perform maintenance duties when an emergency or "surge" in the workload requires that such an assignment be made.⁷ Otherwise, there has been no interchange between these groups of employees, nor have any employees transferred from any other job classification into the maintenance and repair area.⁸ Accordingly, based on the application of the factors discussed above to the record evidence in this case, I find that the Employer's M & R employees comprise a separate and cohesive grouping of employees appropriate for collective bargaining purposes. The work performed by these employees requires a high level of skill and experience distinct from that of the other employees at the facility, most of whom are relatively unskilled, or have skills completely unrelated to those of the petitioned-for unit. Further, any contact or interaction between these employees and other employees is largely sporadic and incidental to the work being performed by the maintenance unit.

There remains for consideration whether the three vehicle mechanics in the Vehicle Maintenance department should be included in the petitioned-for skilled maintenance unit together with the employees in the Maintenance and Repair department. In this regard, I find that the record evidence indicates that these employees share a sufficient community of interest

⁷ The other employee who the Employer contends also performs work similar to that of the petitioned-for employees is George Melencheck, fuel distribution operator. However, Melencheck's duties, while they require skill and training, are wholly unrelated to the duties of those employees

⁸ In light of the fact that the record discloses that heavy equipment operator Michael Martin regularly performs a substantial amount of vehicle mechanic work, at least in the winter months, he may be a dual function employee and, accordingly, I will permit him to vote, subject to challenge, in the election directed herein. See Fleming Industries, Inc., 282 NLRB 1030, fn. 1 (1987).

with the other maintenance employees to be included in the petitioned-for unit. Like the maintenance employees, they are skilled and are among the most highly paid hourly employees of the Employer. Moreover, while they have separate supervision from the other maintenance employees, their duties in repairing and maintaining the base vehicles are essentially the same type of duties as those of the maintenance employees in regard to the base buildings and equipment. Accordingly, and inasmuch as it appears that by virtue of their specialized skills and duties, the three vehicle maintenance employees have a community of interest with the remainder of the petitioned-for unit, and noting that the Employer does not oppose their inclusion in the skilled maintenance unit,⁹ they will be included therein. See Franklin Mint Corporation, supra, 254 NLRB at 715.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate unit for the purposes for collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time skilled maintenance employees, including electricians, HVAC-R mechanics, carpenters, plumbers, boiler tenders and vehicle mechanics employed by the Employer at its Moon Township, Pennsylvania, facility; excluding all office clerical employees, stock clerks, laborers, warehouse specialists, heavy equipment operators, work controllers, material controllers and guards, professional employees and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.¹⁰ Eligible to

⁹ While the Employer contends that only a wall-to-wall unit is appropriate in this matter, it does not otherwise oppose the inclusion of the vehicle mechanics with the maintenance and repair employees. Indeed, the Employer contends that all of the employees, including the vehicle mechanics and maintenance and repair employees, share a sufficient community of interest to be included together in the same bargaining unit.

¹⁰ Pursuant to Section I03.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of

vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.¹¹ Those eligible shall vote whether

the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

¹¹ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 150I, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before July 19, 2001. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

or not they desire to be represented for collective bargaining by International Union of Operating Engineers, Local 95, 95A, 95O, AFL-CIO.

Dated at Pittsburgh, Pennsylvania, this 12th day of July 2001.

/s/Gerald Kobell

Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

440-1760-9167-4533